

REMARKS

Claims 1, 4-10, 24-26 and 33-35 are pending. Of these, claims 1, 10 and 12 are independent. Previously, claims 2-3, 11-23 and 27-32 were canceled

REJECTION UNDER 35 U.S.C. § 112

Beginning on page 2 of the Office Action, claims 8, 24 and 35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is traversed.

By this reply, claims 8 and 35 have been amended to delete the language objected to by the Examiner.

By this reply, claim 24 has been clarified.

Withdrawal of the rejection is requested.

§ 103 REJECTION – '190 PATENT ALONE

Beginning on page 3 of the Office Action, claims 1, 4-10, 24-25 and 33-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,857,190 to Brown ("the '190 patent"). This rejection is traversed.

On page 4 of the Office Action, the Examiner acknowledges that, while disclosing remote logging, the '190 patent fails to explicitly disclose that logging can be performed locally. However, the Examiner goes on to assert that aspects of the '190 patent make local logging an obvious variation thereof. Again, this is traversed.

The Examiner's actual reasoning on page 4 is reprinted as follows for the reader's convenience:

Brown discloses logging, but fails to explicitly disclose that logging can be performed locally. Brown does state that the components of the event system can be distributed over the entertainment network system (column 7, lines 32-33), the events can be forwarded to an alternate location (column 7, lines 46-53), a locally-based event evaluator for screening the events (column 5, lines 43-45), and that the operator can configure where the events are actually logged (column 5, lines 37-40). Since Brown has given both motivation for alternate logging (flexibility in resource allocation, column 5,

lines 39-40) and the ability to configure where the events are logged (column 5, lines 37-40),

It is helpful to consider what literally is stated in the passages relied by the Examiner.

Lines 32-33 from column 7 of the '190 patent are relied upon by the Examiner to support his assertion that the '190 patent "states" that the components of the event system can be distributed over the entertainment network system. Lines 26-33 of column 7 are reprinted as follows.

A forwarding registry 58 is utilized by the event evaluator 52 to locate the event log manager 56 at the headend, thereby alleviating the need for the event evaluator [52] to know where the log manager 56 is physically and actually residing at the headend. The fowarding [*sic*, forwarding] registry 58 is shown in the communication path from the user interface unit to the headend. It can be is located at the headend, or have components distributed over the entertainment network system.

The last two lines of the above-quoted passage correspond to lines 32-33 of column 7 of the '190 patent. There, "it" refers to forwarding registry 58. The above-quoted passage also makes clear that event evaluator 52¹ uses forwarding registry 58 to locate event log manager 56.²

The above-quoted passage, however, does not teach that components in general of the event system can be distributed over the entertainment network system. The Examiner has overestimated the above-quoted passage. Rather, it is limited to being a statement that forwarding registry 58 can have components distributed over the entertainment network system.

Lines 46-53 from column 7 of the '190 patent are relied upon by the Examiner to support his assertion that events can be forwarded to an alternate location. Lines 46-53 from column 7 are reprinted as follows.

The forwarding registry 58 can be configured to alternatively forward the event information to a location other than the event log manager. For example, the system operator might wish to run diagnostics on the interactive

¹ Again, event evaluator 52 is an entity that is local, i.e., within user interface unit 26, but is not itself a logger of events.

² Again, event log manager 56 is an entity that is remote, i.e., within headend 22, and that itself is a logger of events into log database 62 (which is also located in headend 22).

entertainment network system, and use the event information as a form of feedback. In this case, the system operator configures the forwarding registry to route event information to a diagnostic system, rather than the event log manager.

In lines 46-53, the '190 patent teaches that the event information can be forwarded to an entity other than event log manager 56. The example given of such another entity is a diagnostic system, which presumably has a location different than the location of the event log manager 56.

The statement within lines 46-53, namely "alternatively forward the event information to a location other than the event log manager" (underlined emphasis added) carelessly uses "location" to refer to the other entity. The skilled artisan would have understood that the location is typically different only because the alternate entity is typically going to be found somewhere other than where event log manager 56 is found. The careless statement (contrary to what the Examiner seems to be implying) is not a teaching that event log manager 56 itself can be put in other locations.

Lines 43-45 from column 5 of the '190 patent are relied upon by the Examiner as a teaching of a locally-based event evaluator for screening the events. Lines 43-50 from column 5 are reprinted as follows.

With reference again to FIG. 1, the event logging system 50 has an event evaluator 52 that resides at the user interface unit to perform an initial event screening. The event evaluator 52 determines whether an event occurring at the user interface unit is a loggable event or a non-loggable event. Routine operation at the user interface unit gives rise to many possible events, but not all of the events will be recorded or logged.

Inspection of lines 43-45 reveals that event evaluator 52 is concerned merely with whether events are loggable or not. That is, lines 43-45 do not represent a teaching that events are locally logged. This is consistent with Applicants' previous explanation that event evaluator 52 does not perform local logging.³

³ See, the paragraph bridging pages 9-10 of Applicants' Response filed July 28, 2005, which states: "An event evaluator 52 within user interface unit 26 evaluates events occurring at the user interface unit 26 and determines whether each such event is loggable; see col. 6, lines 65 to col. 7, line 1. If so, then event evaluator 52 reports the events to event log manager 56 located within

Lines 37-40 from column 5 of the '190 patent are relied upon by the Examiner as a teaching that the operator can configure where the events are actually logged. Lines 30-42 from column 5 are reprinted as follows (underlined emphasis added).

Loggable events are reported to the headend 22 over the distribution network 28 (step 102). The event logging system is designed so that the user interface unit 26 does not need to know the exact location to report the events at the headend [22]. The headend [22] selects an appropriate database to store event information pertaining to the reported events (step 104). An appropriate database is selected based upon the kind of events being logged. The event logging system is also designed to permit the operator to configure where the events are actually logged to promote flexibility in resource allocation. At step 106, the event information is logged in the selected database, which might be located at the headend [22] or another remote location.

The Examiner's reliance upon lines 37-40 conveniently ignores the succeeding sentence of lines 40-42, which states that the database in which the event information is logged can be located at headend 22 or another remote location. Importantly, lines 40-42 do not merely state that the database can be located at any other location. Rather, the other location at which event information can be logged is a remote location. By ignoring lines 42-42, the Examiner's characterization of lines 37-40 as a teaching of "the ability to configure where the events are logged" misleadingly implies that any other location would be appropriate. That implication, however, contradicts what is literally taught in lines 40-42.

The preceding discussion of the passages relied upon by the Examiner has been careful to consider the context in which those passages arise. The skilled artisan would not have ignored the context in which such passages arise, hence the Examiner's obviousness rationale should not ignore context.

If context is not ignored, then the Examiner's obviousness rationale falters. Admittedly, the '190 patent gives a motivation for an alternate logging location, but consideration of context shows that such an alternate logging location must be remote. The

headend 22; see col. 7, lines 15-20. No logging of events occurs at user interface unit 26. Making entries in a local log regarding such events, however, does not occur at user interface unit 26, i.e., no logging takes place that is local to user interface unit 26. Rather, logging takes place only remotely (relative to user interface unit 26) via event log manager 56 at log database 62 in headend 22."

'190 patent plainly does not teach that the alternate logging location can be local. As such, a distinction over the '190 patent of independent claim 1 is selectively making an entry in a local log. Assuming for the sake of argument that the skilled artisan would have been motivated to adapt the '190 patent in some manner, the result would not have included local logging.

Claims 4-9 and 24-25 depend at least indirectly from claim 1 and thus exhibit at least the same distinction, respectively. Independent claim 10 recites a distinction similar to that of claim 1 and thus similarly distinguishes over the '190 patent. Claims 33-35 depend from claim 10 and thus exhibit at least the same distinction, respectively.

In view of the foregoing discussion, the §103(a) rejection is improper and its withdrawal is requested.

§ 103 REJECTION – '190 PATENT + '712 PATENT

Beginning on page 5 of the Office Action, claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the '190 patent in view of U.S. Patent No. 6,381,712 to Nemitz ("the '712 patent"). This rejection is traversed.

Claim 26 depends indirectly from claim 1. Thus, claim 26 distinguishes over the '190 patent at least for the same reason as given above regarding claim 1. The '712 patent fails to make up for the shortcomings of the '190 patent. Thus, claim 26 distinguishes over the combination of the '190 patent and the '712 patent.

In view of the foregoing discussion, the §103(a) rejection is improper and its withdrawal is requested.

CONCLUSION

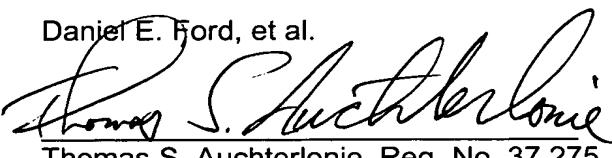
The issues raised in the Office Action are considered to be resolved. Accordingly, Applicant again requests a Notice of Allowability.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 08-0750, including, in particular, extension of time fees.

Respectfully submitted,

Daniel E. Ford, et al.

By: 

Thomas S. Auchterlonie, Reg. No. 37,275
P.O. Box 8910
Reston, VA 20195
(703) 668-8000

TSA/cm